



10-15-03

Attorney Docket No.: AUS-1719-AV

DATE 10/15/03
#1719-AV
10-15-03
Petition
Abandon

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application:)
Gadberry, et al.)
Serial No.: 09/675,851)
Filed: September 28, 2000)
For: SURGICAL INSTRUMENT WITH)
IMPROVED HANDLE ASSEMBLY)

Examiner: Hale, Gloria

Art Unit: 3765

EXPRESS MAIL MAILING LABEL NO.: EV 207796788 USDate of Deposit: October 14, 2003

I hereby certify that the following documents as identified below are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and are addressed to the Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450.

1. Petition to Revive Abandoned Application with Exhibit A;
2. Check No. 097916 in the amount of \$ 55.00; and
3. Return-receipt postcard.

Each of the above-identified documents is enclosed herewith.

Respectfully submitted,

Barbara Johnson
Applied Medical Resources Corporation

22872 Avenida Empresa
Rancho Santa Margarita, California 92688
Telephone (949) 713-8000
Facsimile (949) 713-8206

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OCT 17 2003

OFFICE OF PETITIONS



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application:) Docket No. AUS-1719-AV
Gadberry, et al.)
Serial No.: 09/675,851) Examiner: Hale, Gloria
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For: SURGICAL INSTRUMENT WITH)
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Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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TECHNOLOGY CENTER R3700

PETITION TO REVIVE ABANDONED APPLICATION

Dear Sir:

Applicant of the above-captioned application hereby petitions the Commissioner to withdraw the holding of abandonment which was effective on May 27, 2003. A Notice of Abandonment was mailed September 23, 2003 and indicated that Applicant had failed to timely file a proper reply to the Office letter mailed February 27, 2003.

The reason for Applicant's failure to respond to the Office Action is based on the Applicant's non-receipt of the Office Action. MPEP section 711.03 (c) II provides guidelines for this Petition to Withdraw Holding of Abandonment based on failure to receive Office Action.

MPEP section 711.03(c) II indicates that the Office has modified the showing required to establish non-receipt of an Office Action. "A copy of the docket record where the non-received Office communication would have been entered, had it been received and docketed, must be attached to and referenced in practitioner's statement." An example is given where a docket report based on date of entry is deemed to be a sufficient showing.

Applicant's docket system does not provide a report based on the date a docket item is entered. However, the docket can provide a report showing all items that are due within a certain date range. A copy of this report is attached as Exhibit A for a date range from May 1, 2003 through June 30, 2003.

Page 2 of Exhibit A shows an item docketed for May 25, 2003, with respect to a Case No. 2207-P. Immediately following this docket item is a further item docketed for May 28, 2003 and relating to Case No. 2321-P. If the Office Action in the above-captioned application had been received, it would have been docketed with a due date of **May 27, 2003** and would appear between these two items in the attached report of Exhibit A.

05/17/2003 AUSNDAF1 00000019 09675951

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55.00 CP

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OCT 17 2003

OFFICE OF PETITIONS

Serial No.: 09/675,851
Docket No.: AUS-1719-AV

The enclosed report should provide a showing even more acceptable than that suggested in the example set forth in MPEP section 711.3(c) II. A report based on entry date of a docketed item would require focus on a broad three-month period as contemplated by the example. However, a report based on due date requires a much smaller focus, around a specific due date. This difference in breath of focus is based on the fact that the item entry could have been entered at any time during the three-month period but regardless of its entry date, the due date would always have been the same. Thus, the enclosed due date report should provide an even stronger showing than that suggested in the example.

Accordingly, it is requested that the enclosed report (Exhibit A) be accepted as a showing sufficient to establish non-receipt of the Office communication mailed on February 27, 2003.

The undersigned further attests that the Office communication was not received by himself, his office, or the applicant. A search of the file jacket and docket records further indicates that the Office communication was never received.

Based on the foregoing proofs, it is requested that this petition be granted, that the holding of abandonment be withdrawn, and that the Office Action be re-mailed to the Applicant. With this petition, Applicant is enclosing the fee required by 37 CFR 1.17(l) based on an unavoidably abandoned application.

Respectfully submitted,



Richard L. Myers
Registration No. 26,490

Date: October 13, 2003
22872 Avenida Empresa
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Facsimile (949) 713-8206

DUE DATE SUMMARY 05-01-2003 Thru 06-30-2003

ATTORNEY	FILE NO./ CLIENT	ACTION REQUIRED	DUE DATE
RLM	2834-AB APPLIED MEDICAL RESO	Status Check (Application) Disclosure Statement Reoinder Title: SURGICAL ACCESS SYSTEM & METHOD US Ser. No:10/379,461	05-03-2003
RLM	2834-A APPLIED MEDICAL RESO	Response To Office Action Due RESP DUE/NO FEE Title: SURGICAL ACCESS APPARATUS & METH US Ser. No:10/346,846	05-04-2003
RLM	1630-AUS APPLIED VASCULAR	Response To Office Action Due 6 Month Follow-up Notice Title: BALLOON CATHETER A&M US Pat. No:6,626,861	05-05-2003
RLM	2464-RA APPLIED MEDICAL RESO	Status Check (Application) Last Date To File Non-Provis. App! Title: ENDO BALLOON FOR OBESITY US Ser. No:60/379,540	05-09-2003
RLM	2464-RA APPLIED MEDICAL RESO	Other Action Due FOREIGN FILING ABSOL Title: ENDO BALLOON FOR OBESITY US Ser. No:60/379,540	05-09-2003
RLM	2334-P APPLIED MEDICAL RESO	PCT Filed-Status Check Enter Nat. Phase-Non Ch. II Countr Title: HIGH-FLOW LOW-PRESS IRRGATN SYS PCT Ser. No:US02/27923	05-12-2003
RLM	1883-P APPLIED MEDICAL RESO	PCT Filed-Status Check Enter Nat. Offices By 07-13-2003 Title: MULTI-SEAL TROCAR SYSTEM PCT Ser. No:US01/45567	05-13-2003
RLM	2833-ATMI APPLIED MEDICAL RESO	Status Check(TM Application) Title: GELACCESS US Ser. No:76/467,305	05-13-2003
RLM	2207-P APPLIED MEDICAL RESO	PCT Filed-Status Check Title: SURG ACCESS DEV W/FLOAT GEL SEAL PCT Ser. No:US02/36649	05-13-2003
RLM	2777-A APPLIED MEDICAL RESO	Status Check (Application) Foreign Filing Reminder Title: KINK RESISTENT ACCESS SHEATH US Ser. No:10/298,116	05-15-2003
RLM	2164-RAB APPLIED MEDICAL	Status Check (Application) Last Date To File Non-Provis. App! Title:	05-16-2003
RLM	1592-A APPLIED UROLOGY	Response To Final Action Due 4 Month Check-Allowed or Appealed? Title: KINETIC STENT	05-16-2003
RLM	1592-A APPLIED UROLOGY	Response To Final Action Due RESP DUE W/1MTH FEE Title: KINETIC STENT	05-16-2003

Exhibit A

DUE DATE SUMMARY CONTINU

ATTORNEY	FILE NO./ CLIENT	ACTION REQUIRED	DUE DATE
RLM	1249-EPCB APPLIED LAPAROSCOPY	Annuity/Tax Due Title: TROCAR VALVE ASSEMBLY	05-17-2003 EP Ser. No:95920496.7
RLM	2849-ATMI APPLIED MEDICAL RESO	Status Check(TM Application) Foreign Filing Follow-up Title: SCOUT	05-18-2003
RLM	2849-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Waiting For Filing Receipt Title: SCOUT	05-18-2003
RLM	2848-ATMI APPLIED MEDICAL RESO	Status Check(TM Application) Foreign Filing Follow-up Title: UROWIRE	05-18-2003 US Ser. No:76/478,746
RLM	2848-ATMI APPLIED MEDICAL RESO	Status Check(TM Application) Waiting For Filing Receipt Title: UROWIRE	05-18-2003 US Ser. No:76/478,746
RLM	1387-CACA APPLIED LAPAROSCOPY	Annuity/Tax Due ANNUITY FEE DUE Title: MULTIPORT TROCAR	05-19-2003 CAN Ser. No:2,195,017
RLM	1650-A APPLIED VASCULAR	05-19-2003 RESP DUE W/3RTH EOT Title: SURGICAL CLAMP WITH IMPRVD TRACT US	Pat. No:6,579,304
RLM	2879-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Title: UROBASKET	05-19-2003 Ser. No:76/498,530
RLM	2018-AUS APPLIED MEDICAL RESO	Status Check (Application) Disclosure Statement Reminder Title: SURGICAL ACCESS A&M	05-20-2003 US Ser. No:10/381,220
RLM	2164-P APPLIED MEDICAL RESO	PCT Filed-Status Check DESIGNATED OFFICE REQ'S DONE???? Title: BLADELESS OBTURATOR	05-24-2003 Ser. No:US02/06759
RLM	2207-P APPLIED MEDICAL RESO	PCT Filed-Status Check Priority Doc. Rec'd By Int. Bur.? Title: SURG ACCESS DEV W/FLOAT GEL SEAL PCT	05-24-2003 Ser. No:US02/36649
RLM	2321-P APPLIED MEDICAL RESO	PCT Filed-Status Check Priority Doc. Rec'd By Int. Bur.? Title: ELECTROSURG W/IMPROV CONTROL A&M	05-25-2003 PCT Ser. No:US02/34218
RLM	2067-AUS APPLIED MEDICAL RESO	Status Check (Application) Disclosure Statement Reminder Title: MULTIPLE CLIP APPLIER A&M	05-28-2003 US Ser. No:10/381,970
RLM	CA-2026 APPLIED MEDICAL RESO	Status Check (Application) Disclosure Statement Reminder Title:	05-31-2003

Exhibit A

DUE DATE SUMMARY CONTIN

ATTORNEY	FILE NO./ CLIENT	ACTION REQUIRED	DUE DATE
RLM	2396-A APPLIED MEDICAL RESO	Status Check (Application) Foreign Filing Reminder Title: UNIVERSAL ACCESS SEAL	06-02-2003 US Ser. No:10/308,288
RLM	2283-ATHI	File Proof Of Use Or Extension Required	06-03-2003
	APPLIED MEDICAL RESO	1st Six Month Extension	
	Title: FORTE	Reg. No:2,751,011	
RLM	1631-AUS APPLIED VASCULAR	Response To Office Action Due RESPONSE W/O FEE	06-03-2003
	Title: SURGI.INSTRU.W/IMPR.TRACTION	US Ser. No:09/355679	
RLM	1592-A APPLIED UROLOGY	Issue Fee Due(Formal Dwg. Due?) ISSUE FEE DUE	06-04-2003
	Title: KINETIC STENT		
RLM	2834-A APPLIED MEDICAL RESO	Response To Office Action Due RESP DUE W/1 MO FEE	06-04-2003
	Title: SURGICAL ACCESS APPARATUS & METH	US Ser. No:10/346,846	
RLM	1791-EP APPLIED MEDICAL RESO	Annuity/Tax Due 4TH YR ANNUITY DUE	06-05-2003
	Title: LOW PROFILE SURGICAL CLIP	EP Ser. No:00936509.9	
RLM	1791-CN APPLIED MEDICAL RESO	Other Action Due 2ND MAINTENANCE FEE DUE	06-05-2003
	Title: LOW PROFILE SURGICAL CLIP	CN Ser. No:2,373,388	
RLM	2826-RA APPLIED MEDICAL RESO	Status Check (Application) Foreign Filing Reminder	06-05-2003
	Title: PERCUTANEOUS PLUG	US Ser. No:60/431,638	
RLM	2852-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Foreign Filing Follow-up	06-09-2003
	Title: SEPARATOR	US Ser. No:76/481,396	
RLM	2852-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Waiting For Filing Receipt	06-09-2003
	Title: SEPARATOR	US Ser. No:76/481,396	
RLM	2153-TMCN APPLIED MEDICAL RESO	Instructions To Associate Due RESP TO DA ABSOLUTE!!	06-10-2003
	Title: AMR LOGO DESIGN	CN Ser. No:1112192	
RLM	2878-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Foreign Filing Reminder	06-11-2003
	Title: UROGRASPER	US Ser. No:76/496,576	
RLM	2376-AUS APPLIED MEDICAL RESO	Status Check (Application) Disclosure Statement Reminder	06-11-2003
	Title: SEALED SURGICAL ACCESS DEVICE		
RLM	1650-ADV APPLIED MEDICAL RESO	Status Check (Application) Disclosure Statement Reminder	06-11-2003
	Title: SURGICAL CLAMP W/IMPROVED TRACTN	US Ser. No:10/412,016	

Exhibit A

DUE DATE SUMMARY CONTIN

ATTORNEY	FILE NO./ CLIENT	ACTION REQUIRED	DUE DATE
RLM	2355-P APPLIED MEDICAL RESO	PCT Filed-Status Check DESIGNATED OFFICE REQ'S DONE???? Title: HIGH FLOW STONE BASKET SYSTEM PCT Ser. No:US02/18975	06-12-2003
RLM	2334-P APPLIED MEDICAL RESO	PCT Filed-Status Check DESIGNATED OFFICE REQ'S DONE???? Title: HIGH-FLOW LOW-PRESS IRRGATN SYS PCT Ser. No:US02/27923	06-12-2003
RLM	1883-P APPLIED MEDICAL RESO	PCT Filed-Status Check Enter Nat. Phase-Non Ch. II Countr Title: MULTI-SEAL TROCAR SYSTEM PCT Ser. No:US01/45567	06-13-2003
RLM	1883-P APPLIED MEDICAL RESO	PCT Filed-Status Check CHAPTER II DUE ABSOLUTE Title: MULTI-SEAL TROCAR SYSTEM PCT Ser. No:US01/45567	06-13-2003
RLM	1865-RACA APPLIED MEDICAL RESO	Status Check (Application) Foreign Filing Follow-up Title:	06-16-2003
RLM	1865-RACA APPLIED MEDICAL RESO	Status Check (Application) Non-Provis. Applic. To Be Filed???	06-16-2003
RLM	1592-A APPLIED UROLOGY	Response To Final Action Due RESP DUE W/2MTH EOT Title: KINETIC STENT	06-16-2003
RLM	1790-CIP APPLIED MEDICAL RESO	Status Check (Application) Foreign Filing Follow-up Title: URETERAL ACCESS SHEATH US Ser. No:10/198,030	06-17-2003
RLM	2395-RA APPLIED MEDICAL RESO	Status Check (Application) Foreign Filing Reminder Title: STAPLE-CLIP AND APPLIER US Ser. No:60/434,344	06-17-2003
RLM	2834-A APPLIED MEDICAL RESO	Status Check (Application) Waiting For Filing Receipt Title: SURGICAL ACCESS APPARATUS & METH US Ser. No:10/346,846	06-17-2003
RLM	2849-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Title: SCOUT	06-18-2003
RLM	2847-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Title: OPHIDIAN US Ser. No:76/477,610	06-18-2003
RLM	2848-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Title: UROWIRE US Ser. No:76/478,746	06-18-2003
RLM	2879-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Foreign Filing Reminder Title: UROBASKET Ser. No:76/498,530	06-19-2003

DUE DATE SUMMARY CONTIN

ATTORNEY	FILE NO./ CLIENT	ACTION REQUIRED	DUE DATE
RLM	2030-P APPLIED MEDICAL RESO	PCT Filed-Status Check NATL PHASE DUE Title: STENT DELIVERY SYS & METHOD	06-22-2003 PCT Ser. No:US01/50265
RLM	2553-RA APPLIED MEDICAL RESO	Status Check (Application) Foreign Filing Follow-up Title: CLIP APPLIER CARTRIDGE W/RATCHET US	06-23-2003 Ser. No:60/398,189
RLM	2553-RA APPLIED MEDICAL RESO	Status Check (Application) Non-Provis. Applic. To Be Filed???	06-23-2003 Title: CLIP APPLIER CARTRIDGE W/RATCHET US Ser. No:60/398,189
RLM	2207-P APPLIED MEDICAL RESO	PCT Filed-Status Check Last Date To Withdraw Application Title: SURG ACCESS DEV W/FLOAT GEL SEAL	06-24-2003 PCT Ser. No:US02/36649
RLM	2207-P APPLIED MEDICAL RESO	PCT Filed-Status Check File Chapter 2 Demand By 08-24-200 Title: SURG ACCESS DEV W/FLOAT GEL SEAL	06-24-2003 PCT Ser. No:US02/36649
RLM	2428-P APPLIED MEDICAL RESO	PCT Filed-Status Check Record Copy Rec'd By Int. Bur. Title: SURGICAL DIGITIZING A&M	06-24-2003 PCT Ser. No:US03/04007
RLM	2321-P APPLIED MEDICAL RESO	PCT Filed-Status Check Last Date To Withdraw Application Title: ELECTROSURG W/IMPROV CONTROL A&M	06-25-2003 PCT Ser. No:US02/34218
RLM	1387-EPCA APPLIED LAPAROSCOPY	Instructions To Associate Due RESP TO FA ABSOLUTE!!! Title: MULTIPORT TROCAR	06-28-2003 EP Ser. No:95920566.7
RLM	2067-AUS APPLIED MEDICAL RESO	Status Check (Application) Title: MULTIPLE CLIP APPLIER A&M	06-28-2003 US Ser. No:10/381,970
RLM	2861-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Foreign Filing Follow-up Title: SEQUENTIAL HELIX	06-29-2003 US Ser. No:76/487,118
RLM	2861-ATHI APPLIED MEDICAL RESO	Status Check(TM Application) Waiting For Filing Receipt Title: SEQUENTIAL HELIX	06-29-2003 US Ser. No:76/487,118
RLM	2224-P APPLIED MEDICAL RESO	PCT Filed-Status Check DESIGNATED OFFICE REQ'S DONE???? Title: VASCULAR EXCLUSION CATHETER	06-30-2003

REPORT COMPLETED ON 10-07-2003 AT 11:20:57

Exhibit A